IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9625 OF 2004

Mrs.Perpetual Tawade & Ors. ..Petitioners.

Vs.

Bhupendra Devkar & Ors. ..Respondents.

...

Mr.Anil Singh with Mr.D.R.Shah for the Petitioners.

Mr.R.G.Singh for Respondent No.1.

....

CORAM : DR.D.Y.CHANDRACHUD, J.

12th April, 2005.

P.C. :

The Municipal Corporation has issued a notice under Section 314 of the Mumbai Municipal Corporation Act, 1888 to the First Respondent. That notice has been challenged in a suit before the City Civil Court by the First Respondent. Even according to the Petitioners, the land on which the structure is situated does not belong to the Petitioners, but is set back land which has been handed over to and which vests absolutely in the Municipal Corporation. The Municipal Corporation

has taken action in accordance with law. The Learned Trial Judge was, in these circumstances, justified in rejecting the application of the Petitioners for impleadment as parties under Order 1 Rule 10 of the Code of Civil Procedure, 1908. The Petitioners are neither necessary nor proper parties. There is no merit in the Petition which is accordingly rejected.